

Case: 3:20-cv-00409-WHR Doc #: 1-1 Filed: 10/02/20 Page: 1 of 6 PAGEID #: 5

IN THE COURT OF COMMON PLEAS, MONTGOMERY COUNTY OHIO
CIVIL DIVISION

SUMMONS

PLAINTIFF

HOLLY FURNAS et al

VS

DEFENDANT

WALMART INC et al

CASE NUMBER

2020 CV 03603

ARTICLE NUMBER

396950234865

TO THE FOLLOWING NAMED DEFENDANT:

WALMART INC

CO CT CORPORATION SYSTEM

4400 EASTON COMMONS WAY

COLUMBUS OH 43219

You have been named a Defendant or Respondent in a complaint filed in Montgomery County Court of Common Pleas, Dayton, Ohio. **A copy of the Complaint is attached.**

BY:

HOLLY FURNAS

642 NORTH 9TH STREET

MIAMISBURG, OH 45342

PLAINTIFF ATTORNEY:

STEPHEN P O'KEEFE

O'KEEFE FIRM LPA

7385 FAR HILLS AVENUE

DAYTON, OH 45459

You are hereby summoned and required to serve upon the Plaintiff's attorney, or upon the Plaintiff, if the Plaintiff does not have an attorney, a copy of an **Answer to the Complaint** within **28 days after receipt of this summons, exclusive of the day you received the summons**. Your original **Answer** must be filed with the Clerk of Court's Office **within 3 days** after you serve the Plaintiff's attorney or Plaintiff.

If you fail to appear and defend, Judgment by Default may be rendered against you granting Plaintiff(s) the relief demanded in the Complaint.

NOTE:

If you are represented by an attorney, your attorney is required to electronically file your Answer through the Court's authorized electronic filing system. See Montgomery County Common Pleas Court Loc. R. 1.15, Electronic Filing of Court Documents, for requirements of electronic filing. Local rules can be accessed at www.montcourt.oh.gov. Service of the Answer will be made upon the Plaintiff's attorney through the Court's authorized electronic filing system. If the Plaintiff does not have an attorney, your attorney is required to serve a paper copy of your Answer to the Plaintiff.

If you are representing yourself (appearing pro se), you have the option to file your Answer in paper OR through the Court's authorized electronic filing system (See Loc. R. 1.15, Electronic Filing of Court Documents). Local rules can be accessed at www.montcourt.oh.gov. If you file your Answer in paper, you are required to serve a paper copy of your Answer to the Plaintiff's Attorney or the Plaintiff. If you file your Answer electronically, service of the Answer will be made upon the Plaintiff's attorney through the Court's authorized electronic filing system. If the Plaintiff does not have an attorney, you are required to serve a paper copy of your Answer to the Plaintiff.



/s/ MIKE FOLEY, ISSUED Friday, September 18, 2020

MIKE FOLEY, CLERK

**COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO**

PREPARED ELECTRONICALLY

In The Court Of Common Pleas, Montgomery County Ohio
Civil Division

RETURN OF SERVICE SUMMONS

PLAINTIFF

HOLLY FURNAS et al

VS

DEFENDANT

WALMART INC et al

CASE NUMBER

2020 CV 03603

ARTICLE NUMBER

396950234865

TO THE FOLLOWING NAMED PARTY:

WALMART INC

CO CT CORPORATION SYSTEM

4400 EASTON COMMONS WAY

COLUMBUS, OH 43219

RETURN OF SERVICE(PERSONAL)

FEES

SERVICE \$ _____
MILEAGE _____
TOTAL \$ _____
DATE _____

I received the document on _____, 2020, at _____ o'clock _____ M. and made personal service of it upon _____ by locating him/them and tendering a copy of the document and accompanying documents, on _____, 2020.

By _____

RETURN OF SERVICE(RESIDENCE)

FEES

SERVICE \$ _____
MILEAGE _____
TOTAL \$ _____
DATE _____

I received the document on _____, 2020, at _____ o'clock _____ M. and made residence service of it upon _____ by leaving, at his/their usual place of residence with _____ a person of suitable age and discretion then residing therein a copy of the complaint and accompanying documents, on _____, 2020.

By _____

RETURN OF SERVICE(FAILURE OF SERVICE)

FEES

SERVICE \$ _____
MILEAGE _____
TOTAL \$ _____
DATE _____

I received the document on _____, 2020, at _____ o'clock _____ M. with instructions to make personal/residence service upon _____ and I was unable to serve a copy documents upon him/them for the following reasons:

By _____

ELECTRONICALLY FILED
 COURT OF COMMON PLEAS
 Thursday, September 17, 2020 3:39:11 PM
 CASE NUMBER: 2020 CV 03603 Docket ID: 34906296
 MIKE FOLEY
 CLERK OF COURTS MONTGOMERY COUNTY OHIO

**IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO
 CIVIL DIVISION**

HOLLY FURNAS	:	CASE NO.
642 North 9 th Street	:	
Miamisburg, OH 45342	:	
	:	JUDGE
and	:	
JOHN FURNAS	:	
642 North 9 th Street	:	
Miamisburg, OH 45342	:	
Plaintiffs	:	
v.	:	COMPLAINT FOR PERSONAL INJURIES
WALMART INC.	:	
c/o CT Corporation System	:	
4400 Easton Commons Way, Suite 125	:	
Columbus, OH 43219	:	
and	:	
WAL-MART STORES, INC.	:	
PO Box 8050 MS 0555	:	
Bentonville, AR 72716	:	
Defendants	:	

Now come Plaintiffs and for their Complaint, hereby state as follows:

1. Plaintiffs are residents of Montgomery County, Ohio.
2. Upon information and belief, at all times relevant, Defendant Walmart Inc., (hereinafter "Defendant Walmart") is a corporation licensed to do business in the State of Ohio, County of Montgomery. It is the owner and/or operator of the Wal-Mart store located at 8800 Kingsridge Dr., Miamisburg, OH, 45458, which is located in Montgomery County, Ohio.

3. Upon information and belief, at all times relevant, Defendant Wal-Mart Stores, Inc. (hereinafter "Defendant Wal-Mart Stores") is the owner of the real property located at 8800 Kingsridge Dr., Miamisburg, OH, 45458.

FIRST CLAIM FOR RELIEF

4. On October 9, 2019, Plaintiff Holly Furnas, was a business invitee at the Walmart store located at 8800 Kingsridge Dr., Miamisburg, Ohio. The store was open to the public at the time Holly was in the store. While walking through the store, she turned a corner and was injured as a result of tripping and falling, the proximate cause of which was a dangerous and hazardous condition created by Defendants, and/or their agents and/or employees. This dangerous and hazardous condition consisted of a wooden pallet, which was not easily visible to users and which stuck out several inches into the walkway. The end of the pallet was obscured by a point-of-purchase display. The positioning of the pallet was in violation of Walmart's own safety standards, and those of the industry. Defendants knew this dangerous condition existed but failed to correct the condition and/or warn patrons of this dangerous condition.

5. Defendant Wal-Mart Stores was, and is, the owner of the real property that is the site of the incident described above. As the property owner, it had a duty to exercise reasonable care in the design, construction, maintenance and upkeep of the property, including the negligent and reckless positioning of the display and wooden pallet.

5. Defendants breached their duty of reasonable care by negligently, wantonly or recklessly failing to properly design, construct, maintain or place the wooden pallet and the point-of-sale display, which created an unnecessarily dangerous and hazardous condition.

6. As the direct and proximate result of the negligent acts and omissions of the Defendants, Plaintiffs sustained injuries and damages as follows:

- a. Severe and permanent injuries including but not limited to a Grade III chondromalacia of her right knee, requiring surgery and extensive rehabilitation.
- b. Great pain and suffering, both physical and emotional, and loss of ability to perform usual functions and the injuries will cause further pain and suffering and loss of ability to perform usual functions in the future;
- c. Reasonable and necessary medical expenses in excess of \$21,000;
- d. Miscellaneous out of pocket expenses.

SECOND CLAIM FOR RELIEF

7. Plaintiff incorporates each and every allegation contained above as if fully rewritten.

8. As a direct and proximate result of Defendant's negligent acts and/or omissions as set forth above, all Plaintiffs have suffered pecuniary loss and non-pecuniary loss, including, but not necessarily limited to, loss of support, services, care, assistance, protection, guidance, education, consortium, mental anguish, emotional distress, and loss of enjoyment of life, and further will, in the future, suffer pecuniary loss and non-pecuniary loss, including, but not necessarily limited to, loss of support, services, care, assistance, protection, guidance, education, consortium, mental anguish, emotional distress, and loss of enjoyment of life.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally for damages in an amount in excess of \$25,000.00, attorney fees associated with this action, the costs of this action, and any other relief this court deems necessary and just.

Respectfully submitted:

/s/ Stephen P. O'Keefe
Stephen P. O'Keefe (#0065066)
sokeefe@gomedmalohio.com
THE O'KEEFE FIRM
7385 Far Hills Ave.
Centerville, OH 45459
937/643-0600
937/586-9495 (fax)